

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK C. FAUROT, II,

Plaintiff,

No. CIV S-05-0341 LKK KJM P

vs.

TERHUNE, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

On December 8, 2005, plaintiff's complaint was dismissed with leave to amend. On September 9, 2006, the time was extended by thirty days for plaintiff to file an amended complaint. To date, plaintiff has not filed an amended complaint.¹ Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, plaintiff may file written

¹ On October 16, 2006, plaintiff filed a notice of interlocutory appeal concerning the dismissal of his complaint. Plaintiff did not ask for a stay of this action pending appeal. In any case, the court would not have granted a stay because the order appealed is not appealable at this stage of the case. See 28 U.S.C. § 1292.

1 objections with the court. The document should be captioned "Objections to Magistrate Judge's
2 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
3 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
4 F.2d 1153 (9th Cir. 1991).

5 DATED: October 30, 2006.


U.S. MAGISTRATE JUDGE

8 1
9 faur0341.fta